



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/205,331	12/04/98	LEVINE	SLID2

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PM51/0423

EXAMINER
CHIN, G

ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 04/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/205331

Applicant(s)

LEVINE

Examiner

G. CHIN

Group Art Unit

3661

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892 ✓
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

1. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, lines 26-27, the term "said maintenance advisories" should be "said maintenance advisory" in order to avoid the antecedent basis problem.

As per claim 2, line 2, the clause "an aircraft sensor which detects aircraft performance and control parameters" is misdescriptive since a single aircraft sensor is incapable of detecting both the aircraft performance and control parameters. It is suggested to change it to read "aircraft sensors which detect aircraft performance and control parameters" to rectify the aforementioned problem. Further, on line 18, "said central station means" should be "said central station" to be consistent. Finally, on lines 23-24, "said and maintenance advisories" should be "said maintenance advisory" respectively.

As per claim 3, line 15, "said signal" should be "said signals". On line 18, "said signals, and aircraft identification and configuration label" should be "said signals from said aircraft performance and control sensors, and said aircraft identification and configuration label" in order to avoid the antecedent basis problem. Similarly, on lines 24-25 and 26-27, "said signals" should be "said aircraft performance and control signals" respectively.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

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harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 and 7 of U.S. Patent No. 5,890,079. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-3 of the instant application are merely a broader version of claims 1, 4 and 7 respectively, in the aforementioned patent. It is always obvious to broaden the narrow claims because the broader limitations are generally suggested by the narrow ones.

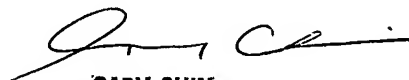
4. The cited references have not been sent along with the current office action since those references should be in applicant's possession as the result of the prosecution in the parent application.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (703) 305-9751. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski, can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


GARY CHIN
PRIMARY EXAMINER
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